

## **§ 1206.203**

which is exempt from disclosure under Subpart 3 of this part, and the portion of the records that is required to be made available is reasonably segregable from the portion that is exempt, the portion that is exempt from disclosure shall be deleted and the balance of the record shall be made available to the requester. If the nonexempt portion of the record appears to be unintelligible or uninformative, the requester shall be informed of that fact, and such nonexempt portion shall not be sent to the requester unless thereafter specifically requested. If technically feasible, the amount of information deleted shall be indicated on the released portion of the record, unless including that indication would harm an interest protected by the exemption in Subpart 3 under which the deletion is made.

## **§ 1206.203 Creation of records.**

Records will not be created by compiling selected items from the files at the request of a member of the public, nor will records be created to provide the requester with such data as ratios, proportions, percentages, frequency distributions, trends, correlations, or comparisons.

## **§ 1206.204 Records of interest to other agencies.**

If a NASA record is requested and another agency has a substantial interest in the record, such an agency shall be consulted on whether the record shall be made available under this part (see § 1206.101(f)(3)). If a record is requested that is a record of another agency, the request shall be returned to the requester, as provided in § 1206.604(c) unless NASA has possession and control of the record requested.

## **§ 1206.205 Incorporation by reference.**

Records reasonably available to the members of the public affected thereby, shall be deemed published in the FEDERAL REGISTER when incorporated by reference in material published in the FEDERAL REGISTER (pursuant to the FEDERAL REGISTER regulation on incorporation by reference, 1 CFR Part 51).

## **14 CFR Ch. V (1–1–01 Edition)**

## **§ 1206.206 Availability for copying.**

Except as provided in § 1206.201, the availability of a record for inspection shall include the opportunity to extract information therefrom or to purchase copies.

## **§ 1206.207 Copies.**

The furnishing of a single copy of the requested record will constitute compliance with this part.

## **§ 1206.208 Release of exempt records.**

If a record which has been requested is exempt from disclosure under Subpart 3 of this part, the record may nevertheless be made available under the procedures of Subpart 6 of this part if it is determined by an official authorized to make either an initial determination or a final determination that such action would not be inconsistent with a purpose of the exemptions set forth in Subpart 3 of this part.

## **Subpart 3—Exemptions**

## **§ 1206.300 Exemptions.**

(a) Under 5 U.S.C. 552(b) Agency records falling within the exemptions of paragraph (b) of this section are not required to be made available under this part. Such records may nevertheless be made available if it is determined that such actions would not be inconsistent with a purpose of the exemption (see § 1206.208).

(b) The requirements of this part to make Agency records available do not apply to matters that are—

(1)(i) Specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and

(ii) Are in fact properly classified pursuant to such Executive Order;

(2) Related solely to the internal personnel rules and practices of NASA;

(3) Specifically exempted from disclosure by statute (other than 5 U.S.C. 552), provided that such statute:

(i) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or

(ii) Establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Trade secrets and commercial or financial information obtained from a person which is privileged or confidential;

(5) Interagency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with NASA;

(6) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information—

(i) Could reasonably be expected to interfere with enforcement proceedings,

(A) Whenever a request is made which involves access to these records and—

(I) The investigation or proceeding involves a possible violation of criminal law; and

(2) There is reason to believe that the subject of the investigation or proceeding is not aware of its pendency, and disclosure of the existence of the records could reasonably be expected to interfere with enforcement proceedings, the Agency may, during only such time as that circumstance continues, treat the records as not subject to the requirements of 5 U.S.C. 552.

(B) [Reserved]

(ii) Would deprive a person of a right to a fair trial or an impartial adjudication,

(iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy,

(iv) Could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, information

furnished by a confidential source. Whenever informant records maintained by a criminal law enforcement agency under an informant's name or personal identifier are requested by a third party according to the informant's name or personal identifier, the Agency may treat the records as not subject to the requirements of 5 U.S.C. 552 unless the informant's status as an informant has been officially confirmed.

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or

(vi) Could reasonably be expected to endanger the life or physical safety of any individual.

(8) Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(9) Geological and geophysical information and data, including maps, concerning wells.

#### **§ 1206.301 Limitation of exemptions.**

(a) This Part 1206 does not authorize the withholding of information or the availability of records to the public, except as specifically stated in this part.

(b) Nothing in this part shall be construed as authority to withhold information from Congress.

### **Subpart 4—Location for Inspection and Request of Agency Records**

#### **§ 1206.400 Information Centers.**

NASA will maintain Information Centers as set forth in this subpart.

#### **§ 1206.401 Location of NASA Information Centers.**

(a) NASA will maintain the following Information Centers, at which Agency records may be inspected, from which copies of Agency records may be requested and at which copies of Agency forms may be obtained: